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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2019

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A N A C T

RELATING TO TAXATION - PERSONAL INCOME TAX - MILITARY RETIREMENT

Introduced By: Representatives Azzinaro, Kennedy, Vella-Wilkinson, Tobon, and
McLaughlin

Date Introduced: February 14, 2019

Referred To: House Finance

It is enacted by the General Assembly as follows:

1 SECTION 1. Section 44-30-12 of the General Laws in Chapter 44-30 entitled "Personal
2 Income Tax" is hereby amended to read as follows:

3 **44-30-12. Rhode Island income of a resident individual.**

4 (a) General. The Rhode Island income of a resident individual means his or her adjusted
5 gross income for federal income tax purposes, with the modifications specified in this section.

6 (b) Modifications increasing federal adjusted gross income. There shall be added to
7 federal adjusted gross income:

8 (1) Interest income on obligations of any state, or its political subdivisions, other than
9 Rhode Island or its political subdivisions;

10 (2) Interest or dividend income on obligations or securities of any authority, commission,
11 or instrumentality of the United States, but not of Rhode Island or its political subdivisions, to the
12 extent exempted by the laws of the United States from federal income tax but not from state
13 income taxes;

14 (3) The modification described in § 44-30-25(g);

15 (4)(i) The amount defined below of a nonqualified withdrawal made from an account in
16 the tuition savings program pursuant to § 16-57-6.1. For purposes of this section, a nonqualified
17 withdrawal is:

18 (A) A transfer or rollover to a qualified tuition program under Section 529 of the Internal
19 Revenue Code, 26 U.S.C. § 529, other than to the tuition savings program referred to in § 16-57-

1 6.1; and

2 (B) A withdrawal or distribution which is:

3 (I) Not applied on a timely basis to pay "qualified higher education expenses" as defined
4 in § 16-57-3(12) of the beneficiary of the account from which the withdrawal is made;

5 (II) Not made for a reason referred to in § 16-57-6.1(e); or

6 (III) Not made in other circumstances for which an exclusion from tax made applicable
7 by Section 529 of the Internal Revenue Code, 26 U.S.C. § 529, pertains if the transfer, rollover,
8 withdrawal or distribution is made within two (2) taxable years following the taxable year for
9 which a contributions modification pursuant to subdivision (c)(4) of this section is taken based on
10 contributions to any tuition savings program account by the person who is the participant of the
11 account at the time of the contribution, whether or not the person is the participant of the account
12 at the time of the transfer, rollover, withdrawal or distribution;

13 (ii) In the event of a nonqualified withdrawal under subparagraphs (i)(A) or (i)(B) of this
14 subdivision, there shall be added to the federal adjusted gross income of that person for the
15 taxable year of the withdrawal an amount equal to the lesser of:

16 (A) The amount equal to the nonqualified withdrawal reduced by the sum of any
17 administrative fee or penalty imposed under the tuition savings program in connection with the
18 nonqualified withdrawal plus the earnings portion thereof, if any, includible in computing the
19 person's federal adjusted gross income for the taxable year; and

20 (B) The amount of the person's contribution modification pursuant to subdivision (c)(4)
21 of this section for the person's taxable year of the withdrawal and the two (2) prior taxable years
22 less the amount of any nonqualified withdrawal for the two (2) prior taxable years included in
23 computing the person's Rhode Island income by application of this subsection for those years.
24 Any amount added to federal adjusted gross income pursuant to this subdivision shall constitute
25 Rhode Island income for residents, nonresidents and part-year residents; and

26 (5) The modification described in § 44-30-25.1(d)(3)(i).

27 (6) The amount equal to any unemployment compensation received but not included in
28 federal adjusted gross income.

29 (7) The amount equal to the deduction allowed for sales tax paid for a purchase of a
30 qualified motor vehicle as defined by the Internal Revenue Code § 164(a)(6).

31 (c) Modifications reducing federal adjusted gross income. There shall be subtracted from
32 federal adjusted gross income:

33 (1) Any interest income on obligations of the United States and its possessions to the
34 extent includible in gross income for federal income tax purposes, and any interest or dividend

1 income on obligations, or securities of any authority, commission, or instrumentality of the
2 United States to the extent includible in gross income for federal income tax purposes but exempt
3 from state income taxes under the laws of the United States; provided, that the amount to be
4 subtracted shall in any case be reduced by any interest on indebtedness incurred or continued to
5 purchase or carry obligations or securities the income of which is exempt from Rhode Island
6 personal income tax, to the extent the interest has been deducted in determining federal adjusted
7 gross income or taxable income;

8 (2) A modification described in § 44-30-25(f) or § 44-30-1.1(c)(1);

9 (3) The amount of any withdrawal or distribution from the "tuition savings program"
10 referred to in § 16-57-6.1 which is included in federal adjusted gross income, other than a
11 withdrawal or distribution or portion of a withdrawal or distribution that is a nonqualified
12 withdrawal;

13 (4) Contributions made to an account under the tuition savings program, including the
14 "contributions carryover" pursuant to paragraph (iv) of this subdivision, if any, subject to the
15 following limitations, restrictions and qualifications:

16 (i) The aggregate subtraction pursuant to this subdivision for any taxable year of the
17 taxpayer shall not exceed five hundred dollars (\$500) or one thousand dollars (\$1,000) if a joint
18 return;

19 (ii) The following shall not be considered contributions:

20 (A) Contributions made by any person to an account who is not a participant of the
21 account at the time the contribution is made;

22 (B) Transfers or rollovers to an account from any other tuition savings program account
23 or from any other "qualified tuition program" under section 529 of the Internal Revenue Code, 26
24 U.S.C. § 529; or

25 (C) A change of the beneficiary of the account;

26 (iii) The subtraction pursuant to this subdivision shall not reduce the taxpayer's federal
27 adjusted gross income to less than zero (0);

28 (iv) The contributions carryover to a taxable year for purpose of this subdivision is the
29 excess, if any, of the total amount of contributions actually made by the taxpayer to the tuition
30 savings program for all preceding taxable years for which this subsection is effective over the
31 sum of:

32 (A) The total of the subtractions under this subdivision allowable to the taxpayer for all
33 such preceding taxable years; and

34 (B) That part of any remaining contribution carryover at the end of the taxable year

1 which exceeds the amount of any nonqualified withdrawals during the year and the prior two (2)
2 taxable years not included in the addition provided for in this subdivision for those years. Any
3 such part shall be disregarded in computing the contributions carryover for any subsequent
4 taxable year;

5 (v) For any taxable year for which a contributions carryover is applicable, the taxpayer
6 shall include a computation of the carryover with the taxpayer's Rhode Island personal income
7 tax return for that year, and if for any taxable year on which the carryover is based the taxpayer
8 filed a joint Rhode Island personal income tax return but filed a return on a basis other than
9 jointly for a subsequent taxable year, the computation shall reflect how the carryover is being
10 allocated between the prior joint filers; and

11 (5) The modification described in § 44-30-25.1(d)(1).

12 (6) Amounts deemed taxable income to the taxpayer due to payment or provision of
13 insurance benefits to a dependent, including a domestic partner pursuant to chapter 12 of title 36
14 or other coverage plan.

15 (7) Modification for organ transplantation.

16 (i) An individual may subtract up to ten thousand dollars (\$10,000) from federal adjusted
17 gross income if he or she, while living, donates one or more of his or her human organs to another
18 human being for human organ transplantation, except that for purposes of this subsection, "human
19 organ" means all or part of a liver, pancreas, kidney, intestine, lung, or bone marrow. A subtract
20 modification that is claimed hereunder may be claimed in the taxable year in which the human
21 organ transplantation occurs.

22 (ii) An individual may claim that subtract modification hereunder only once, and the
23 subtract modification may be claimed for only the following unreimbursed expenses that are
24 incurred by the claimant and related to the claimant's organ donation:

25 (A) Travel expenses.

26 (B) Lodging expenses.

27 (C) Lost wages.

28 (iii) The subtract modification hereunder may not be claimed by a part-time resident or a
29 nonresident of this state.

30 (8) Modification for taxable Social Security income.

31 (i) For tax years beginning on or after January 1, 2016:

32 (A) For a person who has attained the age used for calculating full or unreduced social
33 security retirement benefits who files a return as an unmarried individual, head of household or
34 married filing separate whose federal adjusted gross income for such taxable year is less than

1 eighty thousand dollars (\$80,000); or

2 (B) A married individual filing jointly or individual filing qualifying widow(er) who has
3 attained the age used for calculating full or unreduced social security retirement benefits whose
4 joint federal adjusted gross income for such taxable year is less than one hundred thousand
5 dollars (\$100,000), an amount equal to the social security benefits includable in federal adjusted
6 gross income.

7 (ii) Adjustment for inflation. The dollar amount contained in subparagraphs 44-30-
8 12(c)(8)(i)(A) and 44-30-12(c)(8)(i)(B) shall be increased annually by an amount equal to:

9 (A) Such dollar amount contained in subparagraphs 44-30-12(c)(8)(i)(A) and 44-30-
10 12(c)(8)(i)(B) adjusted for inflation using a base tax year of 2000, multiplied by;

11 (B) The cost-of-living adjustment with a base year of 2000.

12 (iii) For the purposes of this section the cost-of-living adjustment for any calendar year is
13 the percentage (if any) by which the consumer price index for the preceding calendar year
14 exceeds the consumer price index for the base year. The consumer price index for any calendar
15 year is the average of the consumer price index as of the close of the twelve (12) month period
16 ending on August 31, of such calendar year.

17 (iv) For the purpose of this section the term "consumer price index" means the last
18 consumer price index for all urban consumers published by the department of labor. For the
19 purpose of this section the revision of the consumer price index which is most consistent with the
20 consumer price index for calendar year 1986 shall be used.

21 (v) If any increase determined under this section is not a multiple of fifty dollars
22 (\$50.00), such increase shall be rounded to the next lower multiple of fifty dollars (\$50.00). In the
23 case of a married individual filing separate return, if any increase determined under this section is
24 not a multiple of twenty-five dollars (\$25.00), such increase shall be rounded to the next lower
25 multiple of twenty-five dollars (\$25.00).

26 (9) Modification for up to fifteen thousand dollars (\$15,000) of taxable retirement income
27 from certain pension plans or annuities.

28 (i) For tax years beginning on or after January 1, 2017, a modification shall be allowed
29 for up to fifteen thousand dollars (\$15,000) of taxable pension and/or annuity income that is
30 included in federal adjusted gross income for the taxable year:

31 (A) For a person who has attained the age used for calculating full or unreduced social
32 security retirement benefits who files a return as an unmarried individual, head of household, or
33 married filing separate whose federal adjusted gross income for such taxable year is less than the
34 amount used for the modification contained in § 44-30-12(c)(8)(i)(A) an amount not to exceed

1 \$15,000 of taxable pension and/or annuity income includable in federal adjusted gross income; or

2 (B) For a married individual filing jointly or individual filing qualifying widow(er) who
3 has attained the age used for calculating full or unreduced social security retirement benefits
4 whose joint federal adjusted gross income for such taxable year is less than the amount used for
5 the modification contained in § 44-30-12(c)(8)(i)(B) an amount not to exceed \$15,000 of taxable
6 pension and/or annuity income includable in federal adjusted gross income.

7 (ii) Adjustment for inflation. The dollar amount contained by reference in §§ 44-30-
8 12(c)(9)(i)(A) and 44-30-12(c)(9)(i)(B) shall be increased annually for tax years beginning on or
9 after January 1, 2018 by an amount equal to:

10 (A) Such dollar amount contained by reference in §§ 44-30-12(c)(9)(i)(A) and 44-30-
11 12(c)(9)(i)(B) adjusted for inflation using a base tax year of 2000, multiplied by;

12 (B) The cost-of-living adjustment with a base year of 2000.

13 (iii) For the purposes of this section, the cost-of-living adjustment for any calendar year is
14 the percentage (if any) by which the consumer price index for the preceding calendar year
15 exceeds the consumer price index for the base year. The consumer price index for any calendar
16 year is the average of the consumer price index as of the close of the twelve-month (12) period
17 ending on August 31, of such calendar year.

18 (iv) For the purpose of this section, the term "consumer price index" means the last
19 consumer price index for all urban consumers published by the department of labor. For the
20 purpose of this section, the revision of the consumer price index which is most consistent with the
21 consumer price index for calendar year 1986 shall be used.

22 (v) If any increase determined under this section is not a multiple of fifty dollars
23 (\$50.00), such increase shall be rounded to the next lower multiple of fifty dollars (\$50.00). In the
24 case of a married individual filing a separate return, if any increase determined under this section
25 is not a multiple of twenty-five dollars (\$25.00), such increase shall be rounded to the next lower
26 multiple of twenty-five dollars (\$25.00).

27 (10) The first twenty-five thousand dollars (\$25,000) of military retirement income,
28 including retirement income from the regular armed forces, reserves, and national guard, paid by
29 the United States or by this state to persons sixty (60) years and older, commencing with the 2020
30 tax year and thereafter, including any survivorship annuities.

31 (d) Modification for Rhode Island fiduciary adjustment. There shall be added to, or
32 subtracted from, federal adjusted gross income (as the case may be) the taxpayer's share, as
33 beneficiary of an estate or trust, of the Rhode Island fiduciary adjustment determined under § 44-
34 30-17.

1 (e) Partners. The amounts of modifications required to be made under this section by a
2 partner, which relate to items of income or deduction of a partnership, shall be determined under
3 § 44-30-15.

4 SECTION 2. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

A N A C T

RELATING TO TAXATION - PERSONAL INCOME TAX - MILITARY RETIREMENT

1 This act would exclude for the purposes of Rhode Island state income taxes, the first
2 twenty-five thousand dollars (\$25,000) of military retirement income, paid by the state or federal
3 government to persons sixty (60) years or older and applies to the first twenty-five thousand
4 dollars (\$25,000) of eligible military retirement income received in the 2020 tax year, and
5 thereafter.

6 This act would take effect upon passage.

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